

(4) The permittee and all persons owned or controlled by the permittee are no longer responsible for the violation, penalty, or fee.

(b) *Cessation of operations.* After permit suspension or rescission, the permittee must cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the regulatory authority.

[62 FR 19459, Apr. 21, 1997]

**§ 773.22 Verification of ownership or control application information.**

(a) In accordance with § 773.15(c)(1) of this part, prior to the issuance of a permit, the regulatory authority shall review the information in the application provided pursuant to § 778.13 of this chapter to determine that such information, including the identification of the operator and all owners and controllers of the operator, is complete and accurate. In making such determination, the regulatory authority shall compare the information provided in the application with information from other reasonably available sources, including—

(1) Manual data sources within the State in which the regulatory authority exercises jurisdiction, including: (i) The regulatory authority's inspection and enforcement records and (ii) State corporation commission or tax records, to the extent they contain information concerning ownership or control links; and

(2) Automated data sources, including: (i) The regulatory authority's own computer systems and (ii) the Applicant/Violator System.

(b) If it appears from the information provided in the application pursuant to § 778.13(c) through (d) of this chapter that none of the persons identified in the application has had any previous mining experience, the regulatory authority shall inquire of the applicant and investigate whether any person other than those identified in the application will own or control the operation (as either an operator or other owner or controller).

(c) If, as a result of the review conducted under paragraphs (a) and (b) of this section, the regulatory authority

identifies any potential omission, inaccuracy, or inconsistency in the ownership or control information provided in the application, it shall, prior to making a final determination with regard to the application, contact the applicant and require that the matter be resolved through submission of (1) An amendment to the application or (2) a satisfactory explanation which includes credible information sufficient to demonstrate that no actual omission, inaccuracy, or inconsistency exists. The regulatory authority shall also take action in accordance with the provisions of § 843.23 of this chapter (or the State program equivalent), where appropriate.

(d) Upon completion of the review conducted under this section, the regulatory authority shall promptly enter into or update all ownership or control information on AVS.

[59 FR 54353, Oct. 28, 1994]

**§ 773.23 Review of ownership or control and violation information.**

(a) Following the verification of ownership or control information pursuant to § 773.22 of this part, the regulatory authority shall review all reasonably available information concerning violation notices and ownership or control links involving the applicant to determine whether the application can be approved under § 773.15(b) of this part. Such information shall include—

(1) With respect to ownership or control links involving the applicant, all information obtained under §§ 773.22 and 778.13 of this chapter; and

(2) With respect to violation notices, all information obtained under § 778.14 of this chapter, information obtained from OSM, including information shown in the AVS, and information from the regulatory authority's own records concerning violation notices.

(b) If the review conducted under paragraph (a) of this section discloses any ownership or control link between the applicant and any person cited in a violation notice—

(1) The regulatory authority shall so notify the applicant and shall refer the applicant to the agency with jurisdiction over such violation notice; and

(2) The regulatory authority shall not approve the application unless and

until it determines, in accordance with the provisions of §§ 773.24 and 773.25 of this part (or the State program equivalent), (i) That all ownership or control links between the applicant and any person cited in a violation notice are erroneous or have been rebutted, or (ii) that the violation has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, within the meaning of § 773.15(b)(1) of this part (or the State program equivalent).

(c) Following the regulatory authority's decision on the application (including unconditional issuance, conditional issuance, or denial of the permit) or following the applicant's withdrawal of the application, the regulatory authority shall promptly enter all relevant information related to such decision or withdrawal into AVS.

[59 FR 54354, Oct. 28, 1994; 59 FR 61656, Dec. 1, 1994]

**§ 773.24 Procedures for challenging ownership or control links shown in AVS.**

(a)(1) Any applicant or other person shown in AVS in an ownership or control link to any person may challenge such link in accordance with the provisions of paragraphs (b) through (d) of this section and § 773.25 of this part, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the link.

(2) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a Federal violation notice may challenge the status of the violation covered by such notice in accordance with the provisions of paragraphs (b) through (d) of this section and § 773.25 of this part, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.

(3) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a State violation notice may challenge the status of the violation covered by such notice in accordance with the State program equivalents to paragraphs (b) through (d) of this section and § 773.25 of this part for the State that issued

the violation notice, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.

(b) Any applicant or other person who wishes to challenge an ownership or control link shown in AVS or the status of a Federal violation, and who is eligible to do so under the provisions of paragraphs (a)(1) or (a)(2) of this section, shall submit a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents, to OSM, addressed to the Chief of the AVS Office, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240.

(c) OSM shall review any information submitted under paragraph (b) of this section and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted and/or whether the violation covered by the notice remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of § 773.15(b)(1) of this part.

(d)(1) If, as a result of the decision reached under paragraph (c) of this section, OSM determines that the ownership or control link has been shown to be erroneous or has been rebutted and/or that the violation covered by the notice has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, OSM shall so notify the applicant or other person and, if an application is pending, the regulatory authority, and shall correct the information in AVS.

(2) If, as a result of the decision reached under paragraph (c) of this section, OSM determines that the ownership or control link has not been shown to be erroneous and has not been rebutted and that the violation covered by the notice remains outstanding, OSM shall so notify the applicant or other person and, if an application is pending, the regulatory authority, and shall update the information in AVS, if necessary.

(i) OSM shall serve a copy of the decision on the applicant or other person